

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

STEPHEN CANAN
10611 Liberty Street
Garrettsville, Ohio 44231,

Plaintiff,

v.

COURTAD-DALTON, LLC
11733 Timber Point Trail
Mantua, Ohio 44255,

Defendant.

CASE NO. 5:20-cv-2472

**Removed from the Court of Common
Pleas, Portage County, Ohio**

NOTICE OF REMOVAL

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO:

Pursuant to 28 U.S.C. §§ 1331, 1367(a), 1441(a), and 1446, Defendant Courtad-Dalton, LLC (“Courtad-Dalton”), by and through the undersigned counsel, hereby files this Notice of Removal of the action currently pending in the Court of Common Pleas, Portage County, Ohio, Case No. 2020CV00603, (the “State Court Action”) to the United States District Court for the Northern District of Ohio, Eastern Division based upon the following:

1. On September 28, 2020, Plaintiff Stephen Canan filed a Complaint with Interrogatories, Requests for Production, and Requests for Admissions Attached in the State Court Action (the “Complaint”), styled *Stephen Canan v. Courtad-Dalton, LLC*, alleging that Defendant failed to pay Plaintiff all overtime wages due in violation of the Fair Labor Standards Act, 29 U.S.C. § 203 *et seq.* (“FLSA”). Plaintiff also alleges disability discrimination in violation of Ohio Rev. Code § 4112.01 *et seq.*, failure to pay overtime wages due in violation of Ohio Rev. Code § 4111.03., failure to promptly pay all wages due in violation of Ohio Rev. Code § 4113.15, and

failure to maintain accurate time records in violation of Ohio Rev. Code § 4111.14 (collectively, the “State Law Claims”).

2. On October 5, 2020, Plaintiff served on Defendant a copy of the Summons and Complaint in the State Court Action. In accordance with 28 U.S.C. § 1446(a), Defendant is attaching to this Notice of Removal as **Exhibit A** the process, pleadings, and orders, if any, served in the State Court Action.

3. Pursuant to 28 U.S.C. § 1331, district courts have original jurisdiction of all civil actions arising under the laws of the United States. On its face, Plaintiff’s Complaint alleges that Defendant violated the FLSA, which is a federal statute. Given that Plaintiff’s Complaint raises the existence of a federal question, removal of the State Court Action is therefore proper under 28 U.S.C. § 1331.

4. Because Plaintiff’s Complaint also alleges the State Law Claims against Defendant, this Court has supplemental jurisdiction over the State Law Claims pursuant to 28 U.S.C. § 1367(a). The State Law Claims are so related to his FLSA claim that they form part of the same case or controversy under Article III of the United States Constitution. Indeed, Plaintiff’s Complaint alleges that the Defendant failed to pay Plaintiff overtime wages in violation of both the FLSA and the Ohio Revised Code. *See*, Exhibit A.

5. Pursuant to 28 U.S.C. § 1441(a), state court actions in which United States District Courts have original jurisdiction may be removed to the District Court which embraces the place where such action is pending. Because the State Court Action is pending in Portage County, Ohio, the United States District Court for the Northern District of Ohio, Eastern Division, is the appropriate venue for purposes of removal.

6. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because fewer than thirty (30) days have elapsed since Defendant was served with the State Court Action on October 5, 2020. *See*, Exhibit A.

7. At the time of the filing of this Notice of Removal, Defendant has not filed an Answer to Plaintiff's Complaint.

8. Defendant will file a copy of this Notice of Removal with the Portage County Clerk of Courts and will provide notice to Plaintiff as required by 28 U.S.C. § 1446(d). A copy of the Notice of Filing Notice of Removal to be filed with the Portage County Clerk of Courts is attached hereto as **Exhibit B**.

9. This Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11, as required by 28 U.S.C. §1446(a).

10. No admission of fact, law, or liability is intended by this Notice of Removal, and Defendant expressly preserves any and all of its defenses, denials, and obligations.

11. Defendant requests that this Court take jurisdiction of the State Court Action to its conclusion and to final judgment to the exclusion of further proceedings on the claims asserted therein in the State Court Action, in accordance with the law.

WHEREFORE, Defendant Courtad-Dalton, LLC hereby removes the State Court Action from the Court of Common Pleas, Portage County, Ohio, so that all further proceedings in this action be held before the United States District Court for the Northern District of Ohio, Eastern Division.

Respectfully submitted,

s/ Robert A. Zimmerman
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Attorneys for Defendant Courtad-Dalton, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of November, 2020, a copy of the above pleading was served by first class United States mail, postage prepaid, and by electronic mail on the following:

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Attorneys for Plaintiff Stephen Canan

s/ Robert A. Zimmerman
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One of the Attorneys for Defendant Courtad-Dalton, LLC